

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 01-0039**

**SALES AND USE TAX**

**FOR TAX PERIODS: 1993-1999**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**Issues**

**1. Sales and Use Tax- Services**

**Authority:** IC 6-2.5-2-1, IC 6-2.5-4-1, IC 6-8.1-5-1 (b), IC 6-8.1-5-4, IC 6-2.5-1-2, IC 6-2.5-1-1.

The taxpayer protests the assessment of sales tax on certain services.

**Statement of Facts**

The taxpayer is a full service bridal shop. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional sales and use tax, interest, and penalty. The taxpayer protested and a hearing was held on the taxpayer's contention that the department incorrectly assessed sales tax on services.

**Sales and Use Tax- Services**

**Discussion**

IC 6-2.5-2-1 imposes the sales tax on retail transactions made in Indiana. A retail transaction is defined at IC 6-2.5-4-1 as the acquiring and subsequently reselling of tangible personal property. Except for certain enumerated services, sales of services are generally not retail transactions and are not subject to sales tax.

Pursuant to IC 6-8.1-5-1 (b), all tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. Taxpayers have a statutory duty to keep records as set out at IC 6-8.1-5-4 as follows:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

The taxpayer provided alterations on the wedding gowns and other items of clothing that it sold. The department assessed sales tax on these services as part of a taxable unitary transaction pursuant to IC 6-2.5-1-2. A unitary transaction is defined at IC 6-2.5-1-1 as a transaction including the transfer of tangible personal property and the provision of services for a single charge pursuant to a single agreement or order. The taxpayer contended that the alterations were actually services for which buyers contracted separately and therefore were not subject to the sales tax.

The taxpayer was given over sixty (60) days to submit documentation substantiating its contention. The taxpayer failed to provide any such documentation.

The taxpayer also argued that a portion of its receipts were for alteration services performed for clothing manufacturers and other retail establishments. The taxpayer also failed to provide any documentation supporting this claim.

The taxpayer failed to sustain its burden of proving that the department incorrectly assessed sales tax on services.

### **Finding**

The taxpayer's protest is denied.